EXHIBIT 1

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THE HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SAFECO Corporation, SAFECO Insurance Company of America, and SAFECO Insurance Company of Illinois, MARTIN HOVENKOTTER, AFFIDAVIT OF LARRY BATTON
IN SUPPORT OF Defendants. Plaintiff, AFFIDAVIT OF LARRY BATTON IN SUPPORT OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION NO. 2:09-cv-00218 JLR

BEFORE ME, the undersigned authority, on this day appeared Larry Batton who, upon PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

being duly sworn, did depose and restify as follows:

affidavit. The facts stated herein are, within my personal knowledge, true and correct. convicted of a felony or crime involving moral turpitude, and am fully competent to make this My name is Larry Batton. I am over twenty-one (21) years of age, have never been

Our appraisal service determines market values of automobiles for insurance matters, gift tax I oversee all research performed for AAG appraisals including investigation of current market for Nations Bank, U.S. Neval Credit Linion, Stato Farm, Allonae, John Hancock, the F.D.I.C., the requirements and for consumers prior to purchase or sale of their automobile. I have done work activity, sales, trends, comparable value analysis, and diminished value due to accident damage. nationwide company providing comprehensive appraisals of all types of automobiles since 1990. I am the founder and President of Automobile Appraisal Group, Inc. (AAG) a

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BEFORE ME, the undersigned authority, on this day appeared Larry Batton who, upon PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

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THE HONORABLE JAMES L. ROBART

Def. Mot. to Exclude 2:09-cv-00218 JLR - pg. 130 of 150

consultation and appraisal services for major leaders, insurance companies, the F.D.I.C., the

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F.B.I., the U.S. Manchalls Service, the U.S. Secret Service, and coaporations including General Motors, Ford Motor Company & Claysler Motors.

- 2. I have testified in both Federal and State District courts where I have presented testimony on property valuations. I am the author and instructor of the AAG Certification Training Program through which one hundred eventy two (122) agents, located nationwide, have been tested and certified on automobile property valuation. I have access to one of the largest personal automotive research libraries in the country with over seventeen hundred (1700) volumes on automobiles dating from 1900.
- 3. My experience of over 25 years in the automobile business including positions of general manager and sales manager for Chrysler-Plymouth-Dodge-Subaru, Mazda, Chevrolet, Volkswagen, as well as having been a licensed automobile dealer in Virginia. My opinions are based upon my years of experience doing automobile dealer in Virginia. My opinions are based upon my years of experience doing automobile dealers and auctioneers. I have appraised thousands in the field, including automobile dealers and auctioneers. I have appraised thousands of vehicles for trade-ins and luve over thirty (26) years of experience performing automobive inherent diminished value appraisals for major automobile insurers and a number of corporations. In my experience, insurers have paid inherent diminished value expraisals for major automobile insurers and a number of corporations. In my experience, insurers have paid inherent diminished value claims. I have testified on the amount and existence of diminished value in numerous cases and these courts have then ordered that this diminished value be paid.
- 4. In determining the existence of, and the amount of, diminished value, I use information from the insurence claim file. This can include, but is not limited to, the repair

committon from the insurance coain life. It his can include, but is dot influed by the coordinate and the land of the land of

F.B.I., the U.S. Mershalls Service, the U.S. Servet Service, the U.S. Department of Justice and corporations including General Motors, Ford Motor Company, Mercedes-Benz of America & Chrysler Motors. In Washington State 1 appraised the world's largest private collection of automobiles for estate value purposes.

- 2. I have testified in both Federal and State District courts where I have presented testimony on property valuations. I am the author and instructor of the AAG Certification Training Program through which one bundred thirty (130) agents, located nationwide, have been tested and certified on automobile property valuation. I have access to one of the largest personal automobile research libraries in the country with over seventeen hundred (1700) volumes on automobiles dating from 1900.
- 3. My expecience of over 25 years in the automobile business including positions of general manager and sales manager for Chryster-Plymouth-Dodge-Subaru, Mazda, Chevrolet, Volkswager, as well as having been a licensed automobile dealer in Virginia. My opinions are bused upon my years of experience doing automotive appraisals and my experiences with professionals in the field, including automotive appraisals and my experiences with professionals in the field, including automotive appraisals and suctioneers. I have appraised thousands of vehicles for trade-ins and have over thirty [35) years of experience performing automotive inherent diminished value appraisals for najor automobile insurers and a number of corporations. In my experience, insurers have paid inherent diminished value appraisals for major automobile insurers and a number of corporations. In my experience, insurers have paid inherent diminished value of diminished value appraisals for namerous cases and these courts have then ordered that this and existence of diminished value be paid.
- 4. In determining the existence of, and the amount of, diminished value, I use information from the insurance claim file. This can include, but is not limited to, the repair estimate and any reports of prior damage. From these records I take the milesga, year, make and

Signed Batton_OCR.pdf

estimate, pheregraphs and any reports of prior-derrings as shown-on-the insurance estimate insperition report. From these records I take the mileage, year, make and model of the vehicle, as well as its general condition and the options it is equipped with. The repair estimate also shows the type and amount of damage to the vehicle. I can then easily determine the automobile's pre-loss value is by using comparables or the PAADA (theorem genorally as the "Ethic Book"). With this information, I then use comparable or sales to evaluate and determine the diminished value. I find comparables through auction and sales-deta, from dealer-meetions-such as Manheim Asselien, and through information guthered by AAG at other-weekly-estamobile sections held seemed the nation. The above described methodology for assessing diminished value is commonly accepted in my field. In this matter, I reviewed the repair estimate for Mr. Hovenkotter's vehicle. If additional documents are produced from the insurance claim file, I will review them and this could alter my assessment.

Based upon my years of experience, I have the following opinions:

- 5. Vehicles that are in their original condition will-always bring a higher price than vehicles of the same make, model, year, type and militage that have had been damaged in the manner described in Mr. Hovenkotter's repair estimate. Inherent diminished value exists across grographic regions and across all types of vehicles. Mr. Hovenkotter's vehicle incurred inherent diminished value.
- 6. Vehicles that have not been damaged are more sought after by the general public. As a general rule, eutomotive professionals will pay more for vehicles that have not been damaged than they will pay for damaged vehicles. This difference in value is well recognized in the automobile sales profession. Some leasing companies charge a lessee an accident penalty.

 NADA and GGC (which licenses a computerized repair estimation system) are each downloping

model of the vehicle, as well as its general condition and the options it is equipped with. The repair estimate also shows the type and amount of damage to the vehicle. I can then easily determine the automobile's pre-loss value by using comparables or the NADA. (National Automobile Dealers Association) values. With this information, I then use comparable car sales to evaluate and determine the diminished value. I find comparables through ancition and sales data from both dealer and public auctions, and through information gathered by AAG through other appraisal assignments across the pation. The above described methodology for assessing diminished value is commonly accepted in my field. In this matter, I reviewed the repair estimate for Mr. Hovenkotter's vehicle. If additional documents are produced from the insurance claim file, I will review them and this could allor my assessment.

Based upon my years of experience, I have the following opinions:

- 5. Vchicles that are in their original condition will <u>typically</u> bring a higher price than vehicles of the same make, model, year, type and mileage that have been damaged in the manner described in Mr. Hovenkotter's repair estimate. Inherent diminished value exists across geographic regions and across all types of vehicles. Mr. Hovenkotter's vehicle incurred inherent diminished value.
- 6. Vehicles that have not been damaged are mure sought efter by the general public. As a general rule, automotive professionals will pay more for vehicles that have not been damaged than they will pay for damaged vehicles. This difference in value is well recognized in the automobile sales profession. Some leasing companies charge a leasee an socident paualty. Auction disclosure rules also require that certain types of damage to vehicles brought to auction be disclosed. This allows the buyer to know about damage without having to view the car and consequently bid appropriately on the vehicle. Auction Rules allow cars with andisclosed prior

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prioes adjusted downward. These market factors are all reflections of the uniform existence of about damage without having to view the car and consequently bid appropriately on the vehicle types of damage to vehicles brought to suction be disclosed. This allows the buyer to know Auction Rules allow cars with undisclosed prior repaired damage to be returned or have their

- The Retent that course diminished intro—tess of the full use and enjoyment of a schicle—are having been dartaged. It is also not necessary to sell a vehicle before I can determine the vehicle before I can determine the amount of diminished value that has resulted from the vehicle also present front the moins when a vehicle is damaged es-a demoged vehicle can never be amount of diminished yelve. The diminished value exists as of the time a webicle is damaged. determine the existence of and the emount of diminished value is contained in the typical physical inspection of the vehicle. Typically, when i am asked to inspect a car, it is to determine estimates showing the general-type and amount of damage, it is not necessary to repair the estimate of demage written by or for an insurance company. In fact, if given complete repair whether the repairs were properly performed. As discussed above, the information necessary to ered to its pre-loss condition. The presence and amount of inherent distinished value can be desermined without
 - suides to diministraed value to quantify this office. Audion disciosure rules also respire certain

- the limited number of similarly effected vehicles. and rendered a diminished value opinion on all vehicles in the class based upon my inspection of to do a large scale diminished value study of over twelve innefred vehicles. The evaluation book place six years after the damage to the vehicles occurred. I inspected only sixty of the vehicles upon a sample of similar types of vehicles. For example, in 1998, I was hired by General Motors Appraisal techniques can also be used to value large numbers of vehicles based
- elationship between the amount of damage, the pre-loss value of the vehicle and the inherent In my extensive appraisal work with comparables I have found that there is a

all reflections of the uniform existence of diminished value. repaired demage to be returned or have their prices adjusted downward. These market factors are

repaired to its pre-loss condition. diminished value exists as of the time a vehicle is damaged. A damaged vehicle can never be not necessary to sell a vehicle before I can determine the amount of diminished value. The type and amount of damage, it is not necessary to repair the vehicle before I can dotermine the physical inspection of the vehicle. Inspection of the vehicle may be perfurned to determine amount of diminished value that has resulted from the vehicle having been damaged. It is also existence of and the amount of diminished value is contained in the typical estimate of damage witten by or for an insurance company. In fact, if given complete repair estimates showing the vithout impecting the vehicle. As discussed above, the information necessary to determine the whether repairs were properly performed. In the state of the second of the second of the second of the second of and all and the state of the completed diminished value assessments for major insurers The presence and amount of inharent diminished value can be determined without

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vitous inspecing the vehicle. The second of the second of

5. I have trequently completed diminished value essentiation for major insures

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Signed Belton_O

example, in Virginis, I, was kind in a case against Allante. The car was a Tersain, with low mileage and approximately eight to miss thousand deliars in damage. I had information from the repair estimate, the same information weak by Allante's expert nor may also support the same information was to expert nor may safe the car. Allante's expert opined that the diministed value was two thousand solutes my apinion was that the diminished value was five thousand deliar. Deceden the fact that is as seen experience that that a the seen experience that the diminished value was five thousand deliar. Deceden the fact that is as seen experience that the diminished amport, the Court complete my apprint and ordered it

Appraisal techniques can also be used to value large numbers of vehicles based

- upon a sample of similar types of vehicles. For example, in 1998, I was kited by General Motors to do a large scale diminished value study of over twelve hundred vehicles. The evaluation took place six years after the damage to the vehicles occurred. I inspected only sixty of the vehicles and rendered a diminished value opinion on all vehicles in the class based upon my inspection of the limited number of similarly effected vehicles.

 10. In my extensive appraisal work with comparables I have found that there is a relationship between the amount of damage, the pre-loss value of the vehicle and the inherent diminished value. As with my work for GM this can be quantified by looking at similar vehicle
- 14. Inherent diminished value exists the moment a vehicle is in an accident and continues to exist throughout the life of the operational vehicle. Diminished value follows the vehicle and while further damage to the ear can add to the diminished value, the percentage of diminished value for the original damage remains the same over the life of the vehicle. This inherent diminished value exists whether or not there is additional damage due to improper repairs and the two can be separated in calculating inherent diminished value. In preparing valuations of vehicles the additional repair related diminished value is determined through an

sales rather than an individual determination as to each damaged car.

dininisited value. As with my work for GM this can be quantified by looking at similar vehicle sales rather than an individual determination as to each duraged our.

- 10. Inherent diminished value exists the moment a vehicle is in an accident and continues to exist throughout the life of the operational vehicle. Diminished value follows the vehicle and while further damege to the car can add to the diminished value, the percentage of diminished value for the original damage remains the same over the life of the vehicle. This inherent diminished value exists whether or not there is additional damage due to improper repairs and the two can be separated in calculating inherent diminished value. In preparing relusations of vehicles the additional repair related diminished value is determined through an inspection of the repairs made to the vehicle and added to the amount of inherent diminished value which can be determined without an inspection.
- 11. Inherent diminished valve occurs whenever a vehicle suffers damage which includes but is not limited to any of the following: structural and/or flume damage, paint work, deformed sheet metal and/or flood damage. The repair of these types of damage always teaves evidence of repair. Anytime a vehicle has been repaired, the value will be affected. If it can be determined that a vehicle has been in an accident, there is diminished value.

Further Affiant Saith Naught

SWORN TO AND SUBSCRIBED before me, a Notary Public, State of Vinginia this day of 2010, by:

NOTENE AREVT

Notary Public My Commission Expires:

and/or flood damage. The ropair of these types of damage always leaves evidence of repair. Anytime a vehicle has been repaired and it is appeared; the value will be affected. If you can tell value which can be determined without an inspection. includes any of the following: structural and/or frame damage, paint work, deformed sheet metal inspection of the repairs made to the vehicle and added to the amount of inherent diminished 12. Inherent diminished value occurs whenever a vehicle suffers damage which

the application of the paint and/or from everyony resulting from the repaint. the vehicle has been in an accident, there is diminished value. For coample, I can always tell if a valuide has been repainted hocouse of the difference in the ocior's shade, the technique used in Further Afflant Saith Naught.

Def. Mot. to Exclude 2:09-cv-00218 JLR - pg. 135 of 150